

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

DAVID W. NAIL,)
)
)
Plaintiff,) CAUSE NO. 1:06-cv-292 PS
)
)
v.)
)
J.C. GUTIERREZ, *et al.*,)
)
)
Defendants.)

MEMORANDUM AND ORDER

David W. Nail, a *pro se* prisoner, filed a motion for subpoenas. Mr. Nail has not identified to whom he wishes to direct the subpoenas, nor has he informed the court what documents he seeks to obtain by subpoena, why they are relevant to this pending litigation, and what efforts he has made to obtain them without a subpoena. Without this information, the court cannot properly evaluate the validity of his request.

Additionally, this motion does not contain a certificate of service indicating that it was served on defense counsel. FED. R. CIV. P. 5(b)(1) provides that: "Service . . . on a party represented by an attorney is made on the attorney unless the court orders service on the party." As Mr. Nail has been repeatedly told, the defendants are represented and therefore Mr. Nail was required to serve a copy of this request on defense counsel and to so indicate on a certificate of service.

For the foregoing reasons, the court:

- (1) **DENIES** the motion for subpoenas (docket # 84); and

(2) **CAUTIONS** Mr. Nail that in the future, any paper, whether in the form of a letter or a motion, may be stricken if it does not contain a certificate of service stating when and how it was served on defense counsel.

SO ORDERED on April 20, 2007.

S/ROGER B. COSBEY
Roger B. Cosby
United States Magistrate Judge